

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Robert Cavalear,)	
)	
Plaintiff,)	CASE NO.: _____
vs.)	
)	
JK Land, LLC)	
)	
Defendant,)	

COMPLAINT
{Jury Trial Demanded}

Plaintiff, Robert Cavalear (“Plaintiff”), by and through his undersigned counsel, brings this action against the Defendant JK Land, LLC (“Defendant”) and shows this Court as follows:

1. This is an action for damages brought under the Fair Labor Standards Act (“FLSA”).
2. Plaintiff resides in the Court’s jurisdiction and is a past employee of the Defendant.
3. This Court has original federal question jurisdiction pursuant to 28 U.S.C. § 1331 because this case is brought under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.*
4. The Northern District of Georgia has personal jurisdiction over Defendant because it is doing business in Georgia and in this judicial

circuit and the Plaintiff claims arose in this judicial district.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claim occurred in this District.
6. At all times material hereto, Defendant, was and still is Georgia limited liability company, maintained an office at 64 Hunter Road, Douglasville, GA was an “employer” of the Plaintiff within the meaning of 29 U.S.C. §203(d) and at all times material hereto, engaged, along with its employees, in interstate commerce, and had annual gross sales and/or business volume of \$500,000 or more.
7. In furtherance of his employment, Plaintiff was served as both a salesman and a “shop foreman” and used instrumentalities of interstate commerce, thus providing Plaintiff with the protections of the Fair Labor Standards Act.
8. Plaintiff accepted employment and worked for Defendant as both as a salesman and prior to that worked with the title of Shop Foreman, although he in practice was not a manager. Plaintiff’s job duties included no managerial duties and required him to do ordering at the direction of his supervisor.
9. Prior to being an “employee” Plaintiff was improperly classified as an

independent contractor and performed duties as directed by the Defendant.

10. Plaintiff is considered a non-exempt employee under the Fair Labor Standards Act. The Plaintiff did not use discretion or independent judgement when dealing with certain matters but rather followed the rules and guidelines of the Defendant. Further, the Plaintiff did not consistently exercise independent judgment or discretion in her his.
11. Plaintiff's salary changed over the course of his employment. He was paid "straight time" for most all hours worked, but did not receive all of the overtime premium. As a shop foreman in which he was formally "employed" in July 5, 2021 his regular salary of \$52,000.00, which increased to \$57,200.00 in October of 2021, plus during his time as shop foreman he received a 10% commissions on sales. From March 1, 2021 until October 3, 2022 he was employed in sales and made a weekly salary of \$1100.00 plus commissions on a sliding scale.
12. Defendant deliberately refused to pay Plaintiff his overtime pay for those hours over forty per week.
13. Plaintiff's employment did not qualify for an exemption under any provision of the FLSA.
14. Plaintiff has complied with all conditions precedent to bringing this

suit, or same have been waived or abandoned.

15. Plaintiff has retained the services of the undersigned and is obligated to pay for the legal services provided.

COUNT I

VIOLATION OF FAIR LABOR STANDARDS ACT ("FLSA")

16. Plaintiff realleges paragraphs 1- 14 herein.
17. Defendant's violations of the FLSA were willful.
18. Defendant's violations of the FLSA were not based on good faith.
19. Plaintiff alleges this action pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 216 (b), that Plaintiff is entitled to: (i) time-and-a-half overtime pay, and (ii) liquidated damages pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq.
20. Plaintiff seeks recovery of damages for unpaid overtime hours worked, the overtime premium, liquidated damages and further seeks interest, costs, and attorney's fees pursuant to 29 U.S.C. § 216(b).
21. With commissions included in calculating the wages owed, the straight-time owed would be \$46,209.65 and the overtime owed is \$23,104.82. Plaintiff is further entitled to recover liquidated damages in the amount of the wages owed.

22. As Defendant did not advise the Plaintiff of his overtime rights as required by law, any statute of limitations is tolled. Further, as the Defendant's actions were willful, Plaintiff is entitled to claim at least three years back from the filing of this action.

23. WHEREFORE, Plaintiff prays for the following relief:

(a) That process issue against Defendant and that the Defendant be required to answer within the time period provided by applicable law;

(b) That Plaintiff be awarded damages in the amount of his unpaid wages and overtime, and an additional amount as liquidated damages pursuant to 29 U.S.C. §216(b), and/or prejudgment interest;

(c) That Defendant be required to pay Plaintiff's attorney's fees;

(d) That Defendant be required to pay the costs and expenses of this action;

(e) That Plaintiff be granted such other, further and general relief to which he may show himself entitled; and

(f) That a jury be impaneled to hear this cause of action at trial.

Respectfully submitted,

/s/ William Gregory Dobson
William Gregory Dobson, Esq.

Georgia Bar No.: 237770
Lober & Dobson, LLC
1040 Fort Stephenson Road
Lookout Mountain, GA 30750
(478) 335-6895
wgd@lddlawayers.com

/s/ A. Danielle McBride
A. Danielle McBride
Georgia Bar No.800824
Lober & Dobson, LLC
830 Mulberry Street, Suite 201
Macon, Georgia 31201
(478) 745-7700
admcbride@lddlawayers.com

/s/ Michael J. Lober
Michael J. Lober, Esq.
Georgia Bar No.455580
Lober & Dobson, LLC
1197 Canton Street
Roswell, GA 30075
(770) 741-0700
mjlober@lddlawayers.com